

Message Text

LIMITED OFFICIAL USE

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ACTION EUR-12

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FM AMEMBASSY LISBON

TO SECSTATE WASHDC IMMEDIATE 9962

LIMITED OFFICIAL USE SECTION 1 OF 5 LISBON 0765

E.O. 11652: N/A

TAGS: PFOR, PINT, US, PO

SUBJ: BIB/RFE NEGOTIATIONS -- JOINT CONTRACT DRAFT

1. RARET MANAGEMENT, DEPUTY TO MASS COMMUNICATIONS
SECRETARY OF STATE JOAO SOARES LOURO AND DCM JAN. 24-27
JOINTLY DEVELOPED A NEW RARET CONTRACT FOR AD REFERENDUM
CONSIDERATION BY BOTH SIDES. (FYI: GOP DOES NOT PLAN TO
DISSEMINATE CONTRACT ONCE IT IS SIGNED.)
EMBASSY COMMENTS WILL FOLLOW ESPTEL.

2. HERewith INFORMAL EMBASSY TRANSLATION OF PORTUGUESE-
LANGUAGE AGREED-UPON DRAFT, WHICH GOP ON JANUARY 27
CIRCULATED TO INTERESTED MINISTRIES: BEGIN QUOTE.

ARTICLE 1: THE "SOCIEDADE ANONIMA DE RADIO-TRANSMISSAO,
S.A.R.L., RARET, "IS AUTHORIZED TO MAINTAIN, EXPAND, AND
OPERATE ON PORTUGUESE TERRITORY A RADIO BROADCASTING
SERVICE ON ALLOCATED BANDS IN DECA-METRIC WAVES, TO BE
USED FOR THE BROADCASTING AND/OR REBROADCASTING OF
PROGRAMS ABROAD OF RADIO FREE EUROPE/RADIO LIBERTY, INC.,
OR OF ANY OTHER ENTERPRISE WHICH MAY SUCCEED IT.

PARA 1: EXCEPT AS PROVIDED IN THE BODY OF
THIS ARTICLE, ANY TRANSFER OF RIGHTS OR OF
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PARTIAL POSITIONS GRANTED BY THIS CONTRACT TO
RARET SHALL ALWAYS BE SUBJECT TO AGREEMENT OF
THE PORTUGUESE STATE.

PARA 2: RARET IS AUTHORIZED FURTHER TO MAIN-
TAIN OR EXPAND A SYSTEM OF RADIO COMMUNICATIONS
FOR SERVICING INTERNAL BUSINESS AND PROGRAMS
BETWEEN THE VARIOUS LOCALITIES WHERE ITS

SERVICES ARE LOCATED.

PARA 3: THE OPERATION REFERRED TO IN THE
BODY OF THIS ARTICLE SHALL HAVE NO COMMERCIAL
PURPOSES NOR SHALL IT PRODUCE ANY PROFITS, AND
IT SHALL BE SUBJECT TO PORTUGUESE LAWS.

ARTICLE 2: FOR THE OPERATION OF THE SERVICE WHICH
IS THE PURPOSE OF THIS CONCESSION, RARET MAY UTILIZE
THE FOLLOWING PROPERTY:

PARA 1: BELONGING TO THE "EMPRESA PUBLICA
CORREIOS E TELECOMMUNICACOES DE PORTUGAL (E.P.C.T.P.)":

(A) EQUIPMENT WHICH BELONGED TO RARET AND IS NOW
PART OF THE PATRIMONY OF THE "EMPRESA
PUBLICA CORREIOS E TELECOMUNICACOES DE
PORTUGAL," IN ACCORDANCE WITH THE INVENTORY
HELD BY THE "DIRECCAO DOS SERVICOS RADIO-
ELECTRICOS." RARET STATES THAT IT HAS
KNOWLEDGE OF THAT INVENTORY AND RECOGNIZES
ITS VALIDITY;

(B) EQUIPMENT WHICH RARET MAY ACQUIRE TO REPLACE
THAT MENTIONED IN THE PREVIOUS ITEM, WHICH,
UNDER THE TERMS OF THIS CONTRACT, IS TO BE
REMOVED FROM THE INVENTORY AND DISPOSED OF.

(C) LAND AND BUILDINGS ACQUIRED BY RARET WHICH
ARE DESCRIBED IN THE INVENTORY REFERRED TO
IN ITEM (A) ABOVE.

PARA 2: BELONGING TO RARET: ALL OTHER EXISTING
PROPERTY, NAMELY:

(A) FOUR 250KW TRANSMITTERS, REFERRED TO IN THE
TEXT OF ART. 2 IN THE CONCESSION CONTRACT

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DATED APRIL 30, 1963;

(B) NEW TRANSMITTERS AS WELL AS ALL EQUIPMENT AND
ELECTRIC AND RADIO-ELECTRIC AND OTHER
INSTALLATIONS WHICH RARET, FOR WHATEVER REASON,
MAY ACQUIRE FOR PURPOSES SET FORTH IN THE
PRESENT CONTRACT;

(C) ALL LAND AND BUILDINGS WHICH RARET MAY
ACQUIRE IN ORDER TO CARRY OUT ITS ACTIVITIES;

(D) ALL TUBES EXTANT OR WHICH MAY BE ACQUIRED.

PARA 3: BELONGING TO THIRD PARTIES:

ALL EQUIPMENT WHICH RARET MAY LEASE OR OTHERWISE

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ACQUIRE, WHICH IN ALL CIRCUMSTANCES REMAINS THE
PROPERTY OF WHOEVER OWNS IT.

SOLE PARA: THE PARTY OF THE SECOND PART (RARET),
IS HEREBY AUTHORIZED TO COMBINE TWO OR MORE
TRANSMITTERS MENTIONED IN THE TEXT OF THIS
ARTICLE IN ORDER TO OBTAIN GREATER TRANSMITTING
POWER.

ARTICLE 3: INSTALLATION OF TRANSMITTERS AND EQUIPMENT
REFERRED TO IN ART. 2, TO THE DEGREE THIS EXCEEDS
THE AUTHORIZATION ALREADY GRANTED, AND ESTABLISHMENT
OF OTHER RADIO-ELECTRIC INSTALLATIONS FOR RECEIVING
OR TRANSMITTING, OR THE MODIFICATION OF EXISTING EQUIP-
MENT, SHALL ALWAYS REQUIRE PRIOR TECHNICAL APPROVAL
OF THE "DIRECCAO DOS SERVICOS RADIOELECTRICOS DA
E.P.C.T.P." NO SUCH INSTALLATIONS SHALL BE PERMITTED
TO ENTER INTO SERVICE UNTIL THE E.P.C.T.P. SHALL HAVE
CONDUCTED INSPECTIONS DEEMED APPROPRIATE, AND SHALL
HAVE GRANTED THE RESPECTIVE LICENSES, SHOULD LICENSES
BE REQUIRED.

ARTICLE 4: NOTWITHSTANDING THE TERMS OF THIS CONTRACT,
RARET SHALL BE SUBJECT TO ALL LEGAL PROVISIONS AND
REGULATIONS, BOTH NATIONAL AND INTERNATIONAL, AS
REGARDS RADIOELECTRIC INSTALLATIONS AND TO THE SERVICE
INSTRUCTIONS GIVEN IT BY THE "SERVICOS RADIO-
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ELECTRICOS DA E.P.C.T.P." IN ACCORDANCE WITH
THIS CONTRACT OR PORTUGUESE LAW.

ARTICLE 5: THE FREQUENCIES TO BE UTILIZED FOR THE
BROADCASTS SHALL BE THOSE WHICH ARE AUTHORIZED AT
PRESENT. ADVANCE NOTICE OF ALL NEW FREQUENCIES SHALL
BE SUBMITTED ON A PERIODIC BASIS TO THE "DIRECCAO DOS
SERVICOS RADIOELECTRICOS DA E.P.C.T.P.," IN

ACCORDANCE WITH INTERNATIONAL REGULATIONS IN FORCE.

ARTICLE 6: RARET SHALL IDENTIFY ITS RADIO BROADCASTS BY THE GENERAL DESIGNATION OF RADIO FREE EUROPE AND/OR RADIO LIBERTY OR BY ANY OTHER DESIGNATION PREVIOUSLY AGREED UPON WITH THE "DIRECCAO DOS SERVICOS RADIO-ELECTRICOS DA E.P.C.T.P."

SOLE PARA: RARET SHALL NOT BROADCAST, WITHOUT PRIOR AUTHORIZATION, THE STATION CALL LETTERS IN THE DOMESTIC (PORTUGUESE) SERIES WHICH THE "DIRECCAO DOS SERVICOS RADIOELECTRICOS DA E.P.C.T.P." ASSIGNS EACH RARET BROADCAST FREQUENCY--WHETHER FOR MAINTAINING ITS OWN RECORDS, FOR EASE OF INSPECTION OR EVEN FOR CORRESPONDENCE WITH RARET.

ARTICLE 7: WHENEVER IT DEEMS CONVENIENT, THE "DIRECCAO DOS SERVICOS RADIOELECTRICOS DA E.P.C.T.P." MAY INSPECT THE RADIO-ELECTRIC INSTALLATIONS OF RARET AND THERE PERFORM WHATEVER TESTS IT CONSIDERS NECESSARY TO VERIFY THAT THE OPERATION MEETS APPLICABLE PRESCRIBED REGULATIONS.

ARTICLE 8: EVERY SIX MONTHS RARET SHALL FURNISH THE "DIRECCAO DOS SERVICOS RADIOELECTRICOS DA E.P.C.T.P." THE RESULTS OF SPECIFIED TESTS CARRIED OUT IN ITS RADIO ELECTRIC INSTALLATIONS, WHICH VERIFY THE QUALITY AND OTHER CHARACTERISTICS OF ITS BROADCASTS.

ARTICLE 9: RARET AGREES TO MAINTAIN UP-TO-DATE THE FOLLOWING PERMANENT INVENTORIES: (A) OF E.P.C.T.P. - OWNED EQUIPMENT, (B) OF RARET-OWNED EQUIPMENT, AND (C) OF THIRD PARTY-OWNED EQUIPMENT.

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PARA 1: INVENTORIES ON E.P.C.T.P. AND RARET PROPERTY SHALL SPECIFY THE PURCHASE PRICE OF EACH ITEM.

PARA 2: EVERY SIX MONTHS RARET SHALL PROVIDE THE "DIRECCAO DOS SERVICOS RADIOELECTRICOS DA E.P.C.T.P." WITH A COPY OF THE INVENTORIES MENTIONED IN ITEMS (A) AND (B) OF THIS ARTICLE.

PARA 3: THE "DIRECCAO DOS SERVICOS DA E.P.C.T.P." RESERVES THE RIGHT TO PERFORM THE INSPECTIONS IT DEEMS APPROPRIATE IN ORDER TO CONFIRM THE CORRECTNESS OF THE INVENTORIES MENTIONED IN THIS ARTICLE.

PARA 4: RARET SHALL BE RESPONSIBLE FOR MAINTAINING IN THE SAME CONDITION AS IT IS AT PRESENT

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TO SECSTATE WASHDC IMMEDIATE 9964

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ALL EQUIPMENT INCLUDED IN THE PERMANENT
INVENTORY WHICH BELONGS TO THE E.P.C.T.P.

PARA 5: ANY ADDITION TO OR REDUCTION FROM THE
PATRIMONY REFERRED TO IN ITEMS (A) AND (B) OF
ARTICLE 2, PARA. 1, OF THIS CONTRACT AS REGARDS
EQUIPMENT OR OTHER PROPERTY MUST ALWAYS BE
COMMUNICATED TO E.P.C.T.P. IN ACCORDANCE WITH
PARA. 2 OF THIS ARTICLE TO MEET THE INTENT
OF GENERAL LAW AND THIS CONTRACT.

ARTICLE 10: RARET SHALL BE OBLIGED TO:

1. OBSERVE THE MORAL PRINCIPLES OF THE PORTUGUESE
NATION AND RESPECT THE INTERNATIONAL PRACTICES
FOLLOWED BY THE PORTUGUESE STATE;
2. PROVIDE FOR A PORTUGUESE GOVERNMENT DELEGATE,
WHO SHALL BE ACCREDITED TO THE RARET MANAGEMENT
AS PROVIDED BY LAW;
3. MAKE SOUND RECORDINGS OF ALL ITS RADIO
BROADCASTS AND KEEP THEM AVAILABLE FOR THE
"DIRECCAO DOS SERVICOS RADIOELECTRICOS
DA E.P.C.T.P." FOR A PERIOD OF SIXTY DAYS, FOR
ANY INSPECTION WHICH THAT AGENCY MAY DEEM APPROPRIATE;
4. PAY THE FEES WHICH GENERAL LEGISLATION HAS
ESTABLISHED FOR RADIOELECTRIC INSTALLATIONS;
5. SEND AN ANNUAL REPORT FROM THE BOARD OF

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DIRECTORS TO THE E.P.C.T.P.

6. RESTRICT, AS MUCH AS POSSIBLE, THE UTILIZA-
TION OF FOREIGN PERSONNEL WITH THE NUMBER AND

RESPECTIVE CATEGORIES OF SUCH PERSONNEL BEING
SUBJECT TO PORTUGUESE LAW;

7. GRANT "RADIODIFUSAO PORTUGUESA, E.P." (RDP)
28 HOURS OF BROADCASTING TIME PER WEEK, USING THE
EXTANT ANTENNA SYSTEM. TIMING OF THESE TRANS-
MISSIONS SHALL BE AGREED UPON BY THE TWO PARTIES
IN A MANNER SO AS NOT TO INTERFERE WITH RARET'S
REGULAR BROADCAST SCHEDULE. BROADCASTS FOR
RDP SHALL BE HANDLED EXCLUSIVELY BY RARET PERSONNEL,
AND THE FREQUENCIES AND CALL SIGNS UTILIZED
SHALL BE SUCH THAT THEY CANNOT BE CONFUSED WITH
THOSE UTILIZED BY RARET;
8. COMPLY WITH THE AGREEMENT ESTABLISHED WITH
RARET WORKERS TO WHICH ADDENDUM NO. 2, AN ANNEX
TO THIS CONTRACT, REFERS.

ARTICLE 11: IN THE EVENT OF A GRAVE NATIONAL EMER-
GENCY, AND RESPECTING CONSTITUTIONAL PRINCIPLES,
THE PORTUGUESE GOVERNMENT MAY TEMPORARILY
SUSPEND OPERATION OF RARET TRANSMITTERS, BUT ONLY IF
AN IDENTICAL MEASURE IS APPLIED TO ALL OTHER TRANS-
MITTER STATIONS LOCATED ON PORTUGUESE TERRITORY --
WITHOUT OBLIGATION FOR PAYMENT OF ANY INDEMNIFICATION
WHATSOEVER.

ARTICLE 12: IN THE EVENT OF A GRAVE NATIONAL EMERGENCY,
THE PORTUGUESE GOVERNMENT RESERVES THE RIGHT TO RE-
QUISITION FOR ITS OWN USE ALL OR PART OF THE RARET
RADIOELECTRIC INSTALLATIONS. THE LATTER WILL BE
COMPENSATED AT A LEVEL CORRESPONDING TO THE OPERATING
EXPENDITURES OF THE INSTALLATIONS REQUISITIONED.

ARTICLE 13: THIS CONTRACT SHALL REMAIN IN FORCE FOR
FIFTEEN YEARS, COMMENCING ON THE DATE OF SIGNATURE.

PARA 1: THIS CONTRACT PERIOD SHALL BE EXTENDED,
HOWEVER, FOR TIME PERIODS EQUAL TO THE SUM OF
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ALL PERIODS OF SUSPENSION OF OPERATIONS UNDER THE
TERMS OF ARTICLES 11 AND 12.

PARA 2: THIS CONTRACT, AFTER IT HAS BEEN IN
FORCE FOR TEN YEARS UNDER THE TERMS OF THIS
ARTICLE AND ITS PARA. 1, MAY BE TERMINATED BY
EITHER PARTY UPON EIGHTEEN MONTHS ADVANCE NOTICE,
IN WHICH CASE RARET SHALL BE RELEASED FROM THE
OBLIGATION OF PAYING THE INSTALLMENTS NOT YET DUE
UNDER TERMS OF ART. 17.

ARTICLE 14: AT THE END OF THE PERIOD REFERRED TO IN
THE TEXT OF THE PREVIOUS ARTICLE, POSSIBLY EXTENDED
UNDER THE TERMS OF ITS PARA. 1, THE PROPERTY MENTIONED
IN ARTICLE 2, PARA. 1, ITEMS (A) AND (B), SHALL REVERT
TO THE E.P.C.T.P. FURTHER, ITEMS (A) MENTIONED IN
ARTICLE 2, PARA. 2 SHALL AT THAT TIME BECOME THE

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PROPERTY OF RDP.

ARTICLE 15: IF THE CONTRACT HAS BEEN TERMINATED
UNDER THE TERMS OF ARTICLE 13, PARA 2, THE PORTUGUESE
STATE MAY ACQUIRE FROM RARET THE PROPERTY MENTIONED
IN ARTICLE 2, PARA 2, ITEMS (B), (C) AND (D) BY
PAYING THEIR FAIR VALUE, AS ESTABLISHED BY MUTUAL
AGREEMENT. IF AN AGREEMENT CANNOT BE REACHED, THE
VALUE WILL BE ESTABLISHED BY THREE ARBITRATORS
APPOINTED UNDER THE TERMS OF ARTICLE 1513, NO. 3
AND SUCCEEDING NUMBERS OF THE PORTUGUESE CIVIL PRO-
CEEDINGS CODE.

SOLE PARA: SHOULD THE PORTUGUESE STATE NOT WISH
TO AVAIL ITSELF OF THE PRIVILEGE PROVIDED IN THE
TEXT OF THIS ARTICLE, RARET MAY DISPOSE OF THE
PROPERTY MENTIONED THEREIN, WITHIN THE LIMITATIONS
OF APPLICABLE LEGAL CONTRACTUAL PROCEDURES.

ARTICLE 16: THE TWO PARTIES AGREE TO INITIATE
NEGOTIATIONS AT THE END OF THE THIRTEENTH YEAR OF
THIS CONTRACT, WITH A VIEW TO EVENTUAL RENEWAL OF THE
PRESENT CONCESSION.

ARTICLE 17: IN ADDITION TO THE FEES CITED IN ARTICLE
10, PARA 4, RARET ALSO SHALL PAY THE PORTUGUESE STATE
THE AMOUNT OF U.S. \$3,000,000,00 (THREE MILLION
AMERICAN DOLLARS) FOR THE FIFTEEN-YEAR
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CONCESSION, IN EQUAL ANNUAL INSTALLMENTS OF U.S.
\$200,000.--(TWO HUNDRED THOUSAND DOLLARS) TO BE
PAID AS FOLLOWS:

(A) THE FIRST INSTALLMENT UPON SIGNATURE OF THE CONTRACT;

(B) THE REMAINING INSTALLMENTS WITHIN THE FIRST
TEN DAYS OF EACH YEAR THE CONTRACT REMAINS IN FORCE:

PARA 1: THE ANNUAL INSTALLMENT WAS CALCULATED
ON THE BASIS OF EXISTING TRANSMISSION POWER
TOTALING 1,835 KW. IN NO EVENT SHALL THE ANNUAL
INSTALLMENT PAYMENT BE LOWER.

PARA 2: AN INCREASE IN INSTALLED TRANSMISSION
POWER SHALL AUTOMATICALLY AND PROPORTIONATELY IN-
CREASE THE ANNUAL INSTALLMENTS PAID BY RARET,
ON THE BASIS OF THE PRESENT PRICE/TRANSMITTER
POWER RELATIONSHIP.

PARA 3: EACH INCREASE OF THE ANNUAL INSTALLMENTS
SHALL FALL DUE ON THE DATE OF PAYMENT OF THE NEXT
ANNUAL INSTALLMENT, WITH THE INCREASE CALCULATED
ON THE BASIS OF CALENDAR DAYS STARTING WITH THE
FIRST DAY, INCLUSIVE, THE INCREASED TRANSMITTER
POWER CAN LEGALLY BE USED.

ARTICLE 18: RARET MAY ERECT RADIOELECTRIC INSTALLA-
TIONS ON LAND OR BUILDINGS RENTED FROM A THIRD PARTY.
THIS PROCEDURE SHALL BE SUBJECT, HOWEVER, TO THE
TECHNICAL APPROVAL OF THE "DIRECCAO DOS SERVICOS
RADIOELECTRICOS DA E.P.C.T.P." IN ACCORDANCE WITH
LAW AND REGULATIONS.

PARA 1: UNDER TERMS OF THIS ARTICLE, RARET IS
OBLIGED TO INCLUDE IN THE RENTAL CONTRACTS A
CLAUSE WHEREBY THE LANDLORD SPECIFICALLY AUTHORIZES
THE TRANSFER OF THE LESSOR'S RIGHTS TO THE
E.P.C.T.P., IF THE LATTER SO DESIRES, WHEN
THE PRESENT CONTRACT TERMINATES.

PARA 2: SHOULD ANY RENTAL CONTRACT INCLUDE A
CLAUSE REQUIRING DEMOLISHING OF BUILDINGS OR
DISMANTLING OF INSTALLATIONS, SUCH ACTIONS SHALL

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BE TAKEN AT THE EXPENSE OF THE PORTUGUESE STATE
IF THE RENTAL HAS REVERTED TO THE LATTER.

OTHERWISE, THOSE EXPENSES SHALL BE MET BY RARET.

ARTICLE 19: IT IS UNDERSTOOD THAT THE FINANCIAL
OBLIGATIONS OF RARET RESULTING FROM THIS CONTRACT
SHALL BE ASSUMED BY THE BOARD FOR INTERNATIONAL
BROADCASTING, WHICH WAS ESTABLISHED BY LAW OF THE
UNITED STATES OF AMERICA FOR THE PURPOSE OF GRANTING
U.S. GOVERNMENT FUNDS TO RADIO FREE EUROPE/RADIO LIBERTY,
INC. FOR THE CONDUCT OF ITS ACTIVITIES, INCLUDING
RARET.

ARTICLE 20: THE PRESENT CONTRACT CONCELS AND SUPER-

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SEDES THE ENTIRE TEXT OF THE CONCESSION CONTRACT OF
APRIL 30, 1963, AND THE CONTRACT EXTENSION OF
APRIL 30, 1973.

ARTICLE 21: A LUMP SUM OF U.S. \$400.000.00 (FOUR
HUNDRED THOUSAND AMERICAN DOLLARS), A SPECIAL COMPENSA-
TION, SHALL BE PAID THE PORTUGUESE STATE UPON SIGNA-
TURE OF THIS CONTRACT--THIS RELATING TO THE CONCESSION'S
EXTENSION FROM APRIL 30, 1973, UNTIL THE BEGINNING OF
THIS NEW CONCESSION CONTRACT.

ARTICLE 22: WITHIN SIX MONTHS FROM THE DATE OF THE
SIGNATURE OF THIS CONTRACT, RARET AND E.P.C.T.P.
AGREE TO DRAW UP, AT NO EXPENSE TO THE FIRST PARTY,
DOCUMENTS EFFECTING LEGAL TRANSFER OF OWNER-
SHIP TO E.P.C.T.P. OF THE LAND AND BUILDINGS REFERRED
TO IN ARTICLE 2, PARA 1, ITEM (C).

SOLE PARA: SAID DEEDS SHALL SPECIFY THAT SO
LONG AS RARET MAINTAINS ITS ACTIVITY IN PORTUGAL,
IT SHALL UTILIZE FREE OF CHARGE AND WITHOUT
LIMITATIONS, ALL SAID LAND AND BUILDINGS. RARET
SHALL ENJOY USE OF THESE PROPERTIES WHILE
REMAINING EXEMPT FROM STATE TAXES WHICH COULD
RESULT FROM THIS UTILIZATION.

ARTICLE 23: TAKING INTO ACCOUNT THE FRAMEWORK OF THE
PRESENT CONTRACT, THE PORTUGUESE GOVERNMENT STRICTLY
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RESPECTING LAWS IN FORCE, SHALL GRANT PREFERENTIAL
TREATMENT IN ALL MATTERS RELATING TO THE IMPORTA-
TION AND POSSIBLE SUBSEQUENT EXPORTATION OF NEW
TRANSMITTERS AND RELATED EQUIPMENT, WHEN REQUESTED
THROUGH DIPLOMATIC CHANNELS.

ARTICLE 24: ALL QUESTIONS EMERGING FROM THIS CONTRACT
SHALL BE SUBJECT TO THE COURT OF THE DISTRICT OF
LISBON, AND RECOURSE TO OTHER COURTS IS HEREWITH
RELINQUISHED. END QUOTE.

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Message Attributes

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